

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 201909325	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/05/2019 12:50 AM	Location of Incident: [REDACTED]	Precinct: 63	18 Mo. SOL 1/5/2021	EO SOL 8/22/2021	
Date/Time CV Reported Fri, 10/25/2019 2:03 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/25/2019 2:03 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Podd	10795	943688	063 PCT
2. SGT Peter Behan	02140	947896	063 PCT
3. POF Ronette Benjamin	07476	936194	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Cioffi	24252	963217	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Peter Behan	Force: Sergeant Peter Behan used physical force against § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### **Case Summary**

On October 25, 2019, § 87(2)(b) submitted this complaint with the CCRB via telephone.

On July 5, 2019, at 12:50 a.m., § 87(2)(b) made graffiti at the intersection of § 87(2)(b) § in § 87(2)(b) in Brooklyn. PO Thomas Podd and PO Ronette Benjamin of the 63<sup>rd</sup> Precinct pursued § 87(2)(b) in their vehicle. § 87(2)(b) fled on his bicycle to the intersection of § 87(2)(b) § § 87(2)(b). Sgt. Peter Behan of the 63<sup>rd</sup> Precinct responded and allegedly struck § 87(2)(b) in the chin (**Allegation A: Force:** § 87(2)(g)). § 87(2)(b) fell from his bicycle. § 87(2)(b) was transported to § 87(2)(b), where he was diagnosed with a fractured left clavicle. § 87(2)(b) was arrested for making graffiti and possession of a graffiti instrument. § 87(4-b), § 87(2)(g)

BWC footage was obtained from the NYPD Legal Bureau (BR 01-08). No surveillance footage was obtained by the investigation.

### **Findings and Recommendations**

#### **Allegation A – Force: Sergeant Peter Behan used physical force against § 87(2)(b)**

§ 87(2)(b) medical records from § 87(2)(b) (BR 09-11) noted that he was admitted because of shoulder, back, neck and jaw pain. He had abrasions on his left shoulder, left elbow and both knees. He complained that he was “thrown off” his bicycle by officers. X-rays revealed that he had a fractured left clavicle and a preexisting fractured right clavicle that was still healing. On § 87(2)(b), § 87(2)(b) underwent surgery to repair his fractured left clavicle at § 87(2)(b).

§ 87(2)(b) testified that he made graffiti on the side of a truck at § 87(2)(b) § and rode away on his bicycle. PO Podd and PO Benjamin pursued him for approximately twenty blocks with their emergency lights activated. When § 87(2)(b) turned from § 87(2)(b) § § 87(2)(b), he observed an unmarked vehicle. § 87(2)(b) attempted to pedal past, but Sgt. Behan stepped out of the front passenger side of the unmarked vehicle. Sgt. Behan swept his right arm forward and struck § 87(2)(b) under the chin. § 87(2)(b) was thrown from the bicycle and fell backwards. He landed on his shoulder, neck, knees, and elbows. An officer handcuffed § 87(2)(b) and stated that an ambulance would be waiting for him at the precinct stationhouse. PO Podd drove § 87(2)(b) to a Chase Bank and collected a graffiti marker § 87(2)(b) dropped during the bicycle pursuit. PO Podd drove § 87(2)(b) to the precinct stationhouse. An ambulance transported him to § 87(2)(b). At the hospital, he was diagnosed with a fractured clavicle.

Sgt. Behan testified that he observed PO Podd and PO Benjamin’s vehicle following § 87(2)(b). Immediately after seeing them, he heard a radio notification from the officers requesting assistance. Sgt. Behan’s operator, PO Michael Cioffi of the 63<sup>rd</sup> Precinct, drove next to § 87(2)(b) but it appeared too dangerous to try to pull ahead of him. PO Cioffi drove a block ahead of where § 87(2)(b) appeared to bicycle and parked at the intersection of § 87(2)(b) § § 87(2)(b). After Sgt. Behan exited the vehicle, § 87(2)(b) rode his bicycle toward Sgt. Behan. § 87(2)(b) swerved back-and-forth to the left and right as if he was trying to figure out which direction to go to avoid Sgt. Behan. Sgt. Behan tried to guess which way § 87(2)(b) would move so that he could avoid being hit. Sgt. Behan and § 87(2)(b) turned in the same direction and § 87(2)(b) shoulder and collided with Sgt. Behan’s shoulder. § 87(2)(b) continued forward on his bicycle for several feet before falling to the ground. Sgt. Behan did not specifically remember how § 87(2)(b) fell to the ground. PO Cioffi placed § 87(2)(b) into handcuffs. § 87(2)(b) complained that his shoulder hurt because he had a broken clavicle that was sustained prior to this

incident. Sgt. Behan denied striking § 87(2)(b) under the chin. He denied intentionally colliding with § 87(2)(b).

PO Cioffi testified that he did not see the collision because he was focused on parking the police vehicle.

PO Podd testified that he did not see the collision because § 87(2)(b) was too far ahead of him.

PO Benjamin did not have a memory of this incident.

Sgt. Behan stated that he did not prepare a T.R.I. Report because he did not consider § 87(2)(b) running into him to be a use of force.

Sgt. Behan did not activate his BWC until after § 87(2)(b) was handcuffed and other officers arrived. Consequently, the collision was not depicted. His BWC (BR 03) at the 1:34 mark in the video player showed him ask § 87(2)(b) what was wrong with his shoulder. § 87(2)(b) replied that he fractured his collarbone in the past. PO Cioffi's BWC showed that he was still in the police vehicle when the collision occurred.

§ 87(2)(g)

[REDACTED]

§ 87(2)(b) **Sergeant Peter Behan improperly used his body-worn camera according to Patrol Guide 212-123.**

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

#### **Civilian and Officer CCRB Histories**

- § 87(2)(b) [REDACTED]
  - [REDACTED]
- Sgt. Behan has been a member-of-service for eleven years and has been a subject of twelve allegations in nine cases, none of which were substantiated. § 87(2)(g) [REDACTED]
- PO Podd has been a member-of-service for thirteen years and has been a subject of two allegations in two cases, none of which were substantiated. § 87(2)(g) [REDACTED]
- PO Benjamin has been a member-of-service for fifteen years and has been a subject of six allegations in six cases, none of which were substantiated. § 87(2)(g) [REDACTED]

#### **Mediation, Civil and Criminal Histories**

- This case was not eligible for mediation.
- § 87(2)(b) [REDACTED] criminal case regarding this incident was adjourned in contemplation of dismissal (BR 15).
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] has no criminal convictions in NYC (BR 15).
- § 87(2)(b) [REDACTED] filed an NYC Notice of Claim claiming a fractured left clavicle, injuries to his shoulders, back, knee, neck, face, and jaw, emotional injuries, anxiety, depression, hypervigilance, nightmare, loss of sleep, loss of liberty, humiliation, loss of reputation, lost wages, attorneys fees, and medical expenses. He seeks \$3,000,000 as redress (BR 16). There is no 50H hearing scheduled.

Squad 6

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date